

AMENDED IN SENATE JUNE 22, 2004

AMENDED IN SENATE JUNE 9, 2004

AMENDED IN SENATE FEBRUARY 18, 2004

AMENDED IN ASSEMBLY JANUARY 12, 2004

AMENDED IN ASSEMBLY AUGUST 28, 2003

AMENDED IN ASSEMBLY AUGUST 27, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1784

**Introduced by Assembly Members Wolk and Frommer
(Coauthors: Assembly Members Bates, Canciamilla, Chu, Correa,
Daucher, Dutra, Garcia, Shirley Horton, Nakano,
Negrete McLeod, Richman, Salinas, and Wiggins)**

July 15, 2003

An act to amend Section 86205 of, and to add Sections 84211.5 and 86119 to, the Government Code, relating to the Political Reform Act of 1974, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1784, as amended, Wolk. Political Reform Act of 1974: conflict of interest: lobbying interests.

Existing law, the Political Reform Act of 1974, requires a lobbyist to register with the Secretary of State and prohibits a lobbyist from engaging in certain activities.

This bill would, effective January 1, 2005, prohibit a lobbyist or lobbying firm from engaging in direct communication with an elected

state officer, other than a Member of the Legislature, or the elected state officer's staff, for the purpose of influencing legislative or administrative action during the period of time, and for the 6 months following that period of time, that the lobbyist or the lobbying firm, or any other specified person or entity, has a contractual relationship, as defined, with the elected state officer or his or her controlled campaign committee. The bill also would, effective January 1, 2005, prohibit a lobbyist or lobbying firm, during any period of time that the lobbyist or lobbying firm, or any other business entity, as specified, has a business relationship, as defined, with an elected state officer, other than a Member of the Legislature, from engaging in direct communication with the officer or his or her staff for the purpose of influencing legislative or administrative action. The bill would, effective January 1, 2005, require a lobbyist or lobbying firm subject to these provisions because of either a contractual relationship or a business relationship, as described above, to notify the Secretary of State within 14 days pursuant to regulations adopted by the Fair Political Practices Commission.

Existing law prohibits the use of campaign funds to compensate a candidate or elected officer for the performance of political, legislative, or governmental activities, except as specified.

This bill would require a candidate for elective state office to report certain information, as specified, if the candidate or his or her controlled campaign committee enters into a contract or agreement that includes a payment that is contingent upon the election of the candidate to office.

Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.

The bill would create a state-mandated local program by imposing these penalties on persons who violate the provisions of this bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.



This bill, which would declare that it furthers the purposes of the Political Reform Act of 1974, would therefore require a $\frac{2}{3}$ vote.

This bill would incorporate additional changes in Sections 86119 and 86205 of the Government Code proposed by AB 1785 that would become operative only if AB 1785 and this bill are both chaptered and become effective on or before January 1, 2005, and this bill is chaptered last.

The bill would provide that it would not become operative unless AB 1785 is enacted and takes effect on or before January 1, 2005.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 84211.5 is added to the Government
2 Code, to read:

3 84211.5. If a candidate for elective state office or his or her
4 controlled campaign committee enters into a contract or
5 agreement that includes a payment that is contingent upon the
6 election of the candidate to office, the payment shall be reported
7 as an accrued expense owed by the candidate on the next campaign
8 statement covering the reporting period during which the contract
9 or agreement was made and on each subsequent campaign
10 statement covering any period during which the payment remains
11 outstanding. The candidate shall report the payment separately
12 from any other amounts owed to the payee and shall clearly
13 identify the payment as an expense owed under a contingency
14 agreement.

15 SEC. 2. Section 86119 is added to the Government Code, to
16 read:

17 86119. (a) A lobbyist or lobbying firm that becomes subject
18 to subdivision (g) of Section 86205 because of a contractual
19 relationship, as defined in paragraph (2) of that subdivision, with
20 an elected state officer, other than a Member of the Legislature, or
21 his or her controlled campaign committee, shall ~~an elected state~~
22 ~~officer or his or her controlled campaign committee, notify~~ notify
23 the Secretary of State within 14 days.

(b) A lobbyist or lobbying firm that becomes subject to subdivision (h) of Section 86205 because of a business relationship, as defined in paragraph (2) of that subdivision, with an elected state officer, other than a Member of the Legislature, shall notify the Secretary of State within 14 days.

(c) The commission shall adopt regulations to provide for the method, content, and disposition of notifications filed pursuant to this section.

SEC. 2.5. Section 86119 is added to the Government Code, to read:

86119. (a) A lobbyist or lobbying firm that becomes subject to subdivision (g) of Section 86205 because of a contractual relationship, as defined in paragraph (3) of that subdivision, with an elected state officer or his or her controlled campaign committee, shall notify the Secretary of State within 14 days.

(b) A lobbyist or lobbying firm that becomes subject to subdivision (h) of Section 86205 because of a business relationship, as defined in paragraph (3) of that subdivision, with a Member of the Legislature or any other elected state officer, shall notify the Secretary of State within 14 days.

(c) The commission shall adopt regulations to provide for the method, content, and disposition of notifications filed pursuant to this section.

SEC. 3. Section 86205 of the Government Code is amended to read:

86205. No lobbyist or lobbying firm shall:

(a) Do anything with the purpose of placing any elected state officer, legislative official, agency official, or state candidate under personal obligation to the lobbyist, the lobbying firm, or the lobbyist's or the firm's employer.

(b) Deceive or attempt to deceive any elected state officer, legislative official, agency official, or state candidate with regard to any material fact pertinent to any pending or proposed legislative or administrative action.

(c) Cause or influence the introduction of any bill or amendment thereto for the purpose of thereafter being employed to secure its passage or defeat.

(d) Attempt to create a fictitious appearance of public favor or disfavor of any proposed legislative or administrative action or to cause any communication to be sent to any elected state officer,

1 legislative official, agency official, or state candidate in the name
2 of any fictitious person or in the name of any real person, except
3 with the consent of that real person.

4 (e) Represent falsely, either directly or indirectly, that the
5 lobbyist or the lobbying firm can control the official action of any
6 elected state officer, legislative official, or agency official.

7 (f) Accept or agree to accept any payment in any way
8 contingent upon the defeat, enactment, or outcome of any
9 proposed legislative or administrative action.

10 (g) (1) Engage in direct communication with an elected state
11 officer, other than a Member of the Legislature, or the elected state
12 officer's staff, for the purpose of influencing legislative or
13 administrative action during the period of time, and for the six
14 months following that period of time, that any of the following
15 persons has a contractual relationship with the elected state officer
16 or his or her controlled campaign committee:

17 (A) The lobbyist, or any business entity in which the lobbyist
18 has a 3-percent or greater ownership interest or holds a position of
19 management.

20 (B) The lobbying firm, any person who has a whole or partial
21 ownership interest in the lobbying firm, or any person who is an
22 officer or employee of the lobbying firm.

23 (2) For the purposes of paragraph (1), "contractual
24 relationship" means any contract or agreement between a person
25 described in subparagraph (A) or (B) of paragraph (1) and the
26 elected state officer or his or her controlled campaign committee,
27 pursuant to which the person is entitled to compensation of one
28 thousand dollars (\$1,000) or more per quarter, or four thousand
29 dollars (\$4,000) or more per calendar year.

30 (h) (1) Engage in direct communication with an elected state
31 officer, other than a Member of the Legislature, or his or her staff,
32 for the purpose of influencing legislative or administrative action,
33 during any period of time that the lobbyist or lobbying firm, or any
34 other business entity in which the lobbyist has a 3-percent or
35 greater ownership interest or is an officer ~~or employee~~, has a
36 business relationship with the elected state officer.

37 (2) For the purposes of paragraph (1), a "business
38 relationship" exists when an elected state officer, other than a
39 Member of the Legislature, has an economic interest of one
40 thousand dollars (\$1,000) or more, that is reportable pursuant to

Chapter 7 (commencing with Section 87100), in the lobbyist, lobbying firm, or any business entity in which the lobbyist has a 3-percent or greater ownership interest or is an officer or employee. The business relationship shall be deemed terminated upon disposal of the economic interest by the elected state officer, lobbyist, or lobbying firm, or in the case of income, 12 months after the income is received by the elected state officer.

SEC. 3.5. Section 86205 of the Government Code is amended to read:

86205. No lobbyist or lobbying firm shall:

(a) Do anything with the purpose of placing any elected state officer, legislative official, agency official, or state candidate under personal obligation to the lobbyist, the lobbying firm, or the lobbyist's or the firm's employer.

(b) Deceive or attempt to deceive any elected state officer, legislative official, agency official, or state candidate with regard to any material fact pertinent to any pending or proposed legislative or administrative action.

(c) Cause or influence the introduction of any bill or amendment thereto for the purpose of thereafter being employed to secure its passage or defeat.

(d) Attempt to create a fictitious appearance of public favor or disfavor of any proposed legislative or administrative action or to cause any communication to be sent to any elected state officer, legislative official, agency official, or state candidate in the name of any fictitious person or in the name of any real person, except with the consent of that real person.

(e) Represent falsely, either directly or indirectly, that the lobbyist or the lobbying firm can control the official action of any elected state officer, legislative official, or agency official.

(f) Accept or agree to accept any payment in any way contingent upon the defeat, enactment, or outcome of any proposed legislative or administrative action.

(g) (1) Engage in direct communication with Member of the Legislature, his or her staff, or the staff of any committee the Member chairs, for the purpose of influencing legislative action during the period of time, and for the six months following that period of time, that any of the following persons has a contractual relationship with the Member or his or her controlled campaign committee:

1 (A) The lobbyist, or any business entity in which the lobbyist
2 has a 3-percent or greater ownership interest or holds a position of
3 management.

4 (B) The lobbying firm, any person who has a whole or partial
5 ownership interest in the lobbying firm, or any person who is an
6 officer or employee of the lobbying firm.

7 (2) Engage in direct communication with an elected state
8 officer, other than a Member of the Legislature, or the elected state
9 officer's staff, for the purpose of influencing legislative or
10 administrative action during the period of time, and for the six
11 months following that period of time, that any of the following
12 persons has a contractual relationship with the elected state officer
13 or his or her controlled campaign committee:

14 (A) The lobbyist, or any business entity in which the lobbyist
15 has a 3-percent or greater ownership interest or holds a position of
16 management.

17 (B) The lobbying firm, any person who has a whole or partial
18 ownership interest in the lobbying firm, or any person who is an
19 officer or employee of the lobbying firm.

20 (3) For the purposes of paragraphs (1) and (2), "contractual
21 relationship" means any contract or agreement between a person
22 described in subparagraph (A) or (B) of paragraph (1) or
23 subparagraph (A) or (B) of paragraph (2) and the elected state
24 officer or his or her controlled campaign committee pursuant to
25 which the person is entitled to compensation of one thousand
26 dollars (\$1,000) or more per quarter, or four thousand dollars
27 (\$4,000) or more per calendar year.

28 (h) (1) Engage in direct communication with a Member of the
29 Legislature, his or her staff, or the staff of any committee the
30 Member chairs, for the purpose of influencing legislative action,
31 during any period of time that the lobbyist or lobbying firm, or any
32 other business entity in which the lobbyist has a 3-percent or
33 greater ownership interest or is an officer or ~~employee~~, has a
34 business relationship with the Member.

35 (2) Engage in direct communication with an elected state
36 officer, other than a Member of the Legislature, or his or her staff,
37 for the purpose of influencing legislative or administrative action,
38 during any period of time that the lobbyist or lobbying firm, or any
39 other business entity in which the lobbyist has a 3-percent or

1 greater ownership interest or is an officer ~~or employee~~, has a
2 business relationship with the elected state officer.

3 (3) For the purposes of paragraphs (1) and (2), a “business
4 relationship” exists when a Member of the Legislature or other
5 elected state officer has an economic interest of one thousand
6 dollars (\$1,000) or more, that is reportable pursuant to Chapter 7
7 (commencing with Section 87100), in the lobbyist, lobbying firm,
8 or any business entity in which the lobbyist has a 3-percent or
9 greater ownership interest or is an officer ~~or employee~~. The
10 business relationship shall be deemed terminated upon disposal of
11 the economic interest by the Member or other elected state officer,
12 lobbyist, or lobbying firm, or in the case of income, 12 months
13 after the income is received by the Member or other elected state
14 officer.

15 SEC. 4. Section 2.5 of this bill incorporates amendments to
16 Section 86119 of the Government Code proposed by both this bill
17 and AB 1785. It shall only become operative if (1) both bills are
18 enacted and become effective on or before January 1, 2005, (2)
19 each bill amends Section 86119 of the Government Code, and (3)
20 this bill is enacted after AB 1785, in which case Section 2 of this
21 bill shall not become operative.

22 SEC. 5. Section 3.5 of this bill incorporates amendments to
23 Section 86205 of the Government Code proposed by both this bill
24 and AB 1785. It shall only become operative if (1) both bills are
25 enacted and become effective on or before January 1, 2005, (2)
26 each bill amends Section 86205 of the Government Code, and (3)
27 this bill is enacted after AB 1785, in which case Section 3 of this
28 bill shall not become operative.

29 SEC. 6. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 Constitution.

38 SEC. 7. The Legislature finds and declares that the provisions
39 of this act further the purposes of the Political Reform Act of 1974

1 within the meaning of subdivision (a) of Section 81012 of the
2 Government Code.

3 SEC. 8. Except as otherwise provided in Sections 4, 5, and 9
4 of this act, Sections 2, 2.5, 3, and 3.5 of this act shall become
5 operative on January 1, 2005.

6 SEC. 9. This act shall not become operative unless AB 1785
7 is enacted and takes effect on or before January 1, 2005.

8 SEC. 10. This act is an urgency statute necessary for the
9 immediate preservation of the public peace, health, or safety
10 within the meaning of Article IV of the Constitution and shall go
11 into immediate effect. The facts constituting the necessity are:

12 In order to prevent undue influence by lobbyists, lobbying
13 firms, and lobbyist employers on Members of the Legislature, it
14 is necessary that this bill go into immediate effect.

